

Decision **PROPOSED DECISION OF ALJ YACKNIN** (Mailed 8/29/2014)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Application of San Diego Gas & Electric
Company (U902E) to Fill Local Capacity
Requirement Need Identified in D.13-03-029.

Application 13-06-015
(Filed June 21, 2013)

**DECISION DENYING COMPENSATION TO CALIFORNIA ENVIRONMENTAL
JUSTICE ALLIANCE FOR FAILURE TO MAKE A SUBSTANTIAL CONTRIBUTION
TO DECISION 14-02-016**

Claimant: California Environmental Justice Alliance	For contribution to Decision 14-02-016
Claimed (\$): \$34,639.40	Awarded (\$): \$0.00 (reduced 100%)
Assigned Commissioner: Michael R. Peevey	Assigned Administrative Law Judge: Hallie Yacknin

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	<p>Decision (D.) 13-03-029 determined a local capacity requirement need and directed San Diego Gas & Electric Company (SDG&E) to procure up to 298 megawatts (MW) of local generation capacity beginning in 2018. Among other things, the decision also denied authority to enter into a power purchase tolling agreement with Pio Pico Energy Center (Pio Pico), without prejudice to a renewed application for its approval if amended to match the timing of the identified need.</p> <p>D.14-02-016, to which CEJA here claims it made a substantial contribution, approves SDG&E's renewed application for authority to enter into a PPTA with Pio Pico.</p>
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	August 21, 2013	Verified
2. Other Specified Date for NOI:	n/a	
3. Date NOI Filed:	September 17, 2013	Verified
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on Administrative Law Judge (ALJ) ruling issued in proceeding number:	Application (A.) 13-06-015	Verified
6. Date of ALJ ruling:	October 17, 2013	Verified
7. Based on another CPUC determination (specify):	N/A	
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.13-06-015	Verified
10. Date of ALJ ruling:	October 17, 2013	Verified
11. Based on another CPUC determination (specify):	n/a	
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-02-016	Verified
14. Date of Issuance of Final Order or Decision:	February 12, 2014	Verified
15. File date of compensation request:	April 11, 2014	Verified
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION**A. Specific contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059).**

Intervenor's claimed contribution	Intervenor's reference to decision where claimed contribution was made	CPUC Discussion
<p><u>Whether to defer this decision until the conclusion of the 2012 LTPP:</u></p> <p>(*1) CEJA claims that it “provided a unique perspective that enriched the Commission’s deliberations and the record by recommending that the decision be postponed until after a determination of need for new resources is made in Track 4 of Rulemaking 12-03-014 (2012 LTPP).”</p> <p>(*2) CEJA states that it “submitted extensive briefing as well as conducted cross-examination on the issue.</p> <p>(*4) CEJA states, “The Commission’s analysis on whether to postpone the decision was based upon substantial evidence presented by CEJA.”</p>	<p>(*3) D.14-02-016, at 3 (“Sierra Club and CEJA point out several intervening events since the issuance of D.13-03-029 that might affect the assessment of local area need, including the closure of the San Onofre Nuclear Generating Station (SONGS).”)</p> <p>(*4) D.14-02-016, at 4 (“We are not persuaded to discard the need determination made in D.13-03-029 as part of the 2010 LTPP [footnote omitted] in favor of a yet-to-be-made need determination in the 2012 LTPP.”)</p>	<p>No substantial contribution:</p> <p>(*1) CEJA did not provide a “unique perspective” by making this recommendation: Along with CEJA and Sierra Club, TURN also made this recommendation in pleadings, as well as at the prehearing conference and in comments on proposed decision.</p> <p>(*2) The physical extent of a party’s showing does not demonstrate substantial contribution to a decision.</p> <p>(*3) A decision’s acknowledgement of a contention made by a party does not demonstrate that the contention substantially contributed to the decision.</p> <p>(*4) D.14-02-016 dismissed CEJA’s argument as speculative and its evidence as not meaningful:</p> <p>“It is not evident that the intervening events since the issuance of D.13-03-029 eliminate or reduce the need that was found in that decision. While Sierra Club and CEJA contend that future Commission action in response to the SONGS closure may eliminate Pio Pico as a reasonable or necessary solution for meeting the Local Capacity Requirements (LCR) need, it is at least equally possible that the SONGS closure creates an additional need for Pio Pico. As for the limited continued</p>

		operation of the Cabrillo II combustion turbines, the fact that they will remain in service for a limited period does not meaningfully inform the issue of whether there is a need for additional local capacity beginning in 2018.” (At 4.)
<u>Cabrillo II:</u> <ul style="list-style-type: none"> CEJA states that it informed the Commission that the previous decision, D.13-03-029, assumed that the Cabrillo II turbines would be retired, and that SDG&E has negotiated an agreement allowing them to remain in service. CEJA states that the CPUC’s analysis of the relevance of the continued operation of the Cabrillo II turbines relied upon CEJA’s showing on this issue. 	<p>D.14-03-016, at 4 (“Sierra Club and CEJA point out that, although D.13-03-029 assumed that the Cabrillo II combustion turbines would be retired in 2013, SDG&E has since negotiated an agreement to allow them to remain in service for a limited period.”)</p> <p>D.14-02-016, at 4-5 (“As for the limited continued operation of the Cabrillo II combustion turbines, the fact that will remain in service for a limited period does not meaningfully inform the issue of whether there is a need for additional local capacity beginning in 2018.”)</p>	<p>No substantial contribution:</p> <p>A decision’s acknowledgement of a contention made by a party does not demonstrate that the contention substantially contributed to the decision.</p> <p>D.14-02-016 dismisses CEJA’s contention “not meaningfully inform[ing]” the Commission’s deliberations. (At 4-5.) D.14-02-016 “relied” on CEJA’s showing only to the extent that it acknowledged it and dismissed it as uninformative.</p>
<u>Cost Reasonableness</u> <ul style="list-style-type: none"> CEJA states that it presented two alternatives analyses to the calculation of cost, and describes them as follows: “First, CEJA compared the nominal contract price of the amended PPTA in comparison to the original PPTA. Second, CEJA argued that it would have been more cost effective 	<p>CEJA does not reference any specific portion of the decision that reflects the Commission’s analysis on this issue or its consideration of CEJA’s showing.</p>	<p>No substantial contribution:</p> <p>D.14-02-016 does not give any recognition to CEJA’s showing that the net present value of the 25-year contract is greater than the net present value of the 20-year contract. It finds that “the bid ranking price of the amended PPTA is more favorable (<i>i.e.</i> lower) than the bid ranking price of the original PPTA due to the delay in the start date and a ten-fold decrease in the transmission interconnection cost estimates since</p>

<p>for SDG&E to issue a new RFO specifically seeking local resources to provide.”</p> <ul style="list-style-type: none"> • CEJA claims that its discussion of these two alternatives “substantially assisted the Commission’s analysis by fully developing the record with regard to price calculation.” 		<p>SDG&E initially evaluated it.” (At 6.)</p> <p>D.14-02-016 does not attribute the claim to CEJA, but dismisses as speculative the claim that “issuing a new RFO would provide any price advantage to ratepayers, as market evidence shows that power plant costs have increased slightly since 2009. Furthermore, it is unlikely that issuing a new RFO would result in timely procurement to meet the identified need for new LCR generation capacity beginning in 2018, as the expected timeframe to complete a procurement process from issuance of an RFO to commercial operation of the selected resources is at least five years.” (At 7.)</p> <p>The fact that a party made a physical contribution to the record does not demonstrate that it has substantially contributed to the decision.</p>
<p><u>Increase in Term From 20 to 25 Years</u></p> <ul style="list-style-type: none"> • CEJA states that it extensively developed the record and aided the Commission’s decisionmaking by identifying the environmental risks associated with extending the contract terms and that, although the Commission rejected CEJA’s position, the Commission’s analysis was substantially informed by CEJA’s discussion of the issue. 	<p>CEJA does not reference any specific portion of the decision that reflects the Commission’s analysis on this issue or its consideration of CEJA’s showing.</p>	<p>No substantial contribution:</p> <p>D.14-02-016 dismisses as speculative CEJA’s (and Sierra Club’s) argument that, without having conducted an RFO that specifically targets the local capacity reliability area, SDG&E cannot know whether some or all of the need could be met with preferred renewable resources, noting the factual evidence that shows the contrary (“However, of the renewable projects that had been proposed in SDG&E solicitations since the 2009 RFO, only 12 potentially are in the local area and, taken together, they would only minimally contribute to the 298 MW need. Furthermore, many of these projects have already been cancelled, are not seeking full</p>

		<p>deliverability status to count towards CAISO local capacity requirements, and a number of them seek deliverability on the same paths and thus may not all be able to achieve deliverability status.” (At 7.)</p> <p>D.14-02-016 dismisses as speculative CEJA’s (and Sierra Club’s) claim that the value of the PPTA is diminished by new proposed federal regulations of carbon pollution that will directly implicate and limit Pio Pico’s operations, as the proposed rule is subject to the federal rulemaking process, where it will undergo comment and possible revision. (At 8.)</p>
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA)¹ a party to the proceeding?	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: Sierra Club was the primary party taking positions similar to CEJA.		Verified
d. Intervenor’s Claim of Non-Duplication: CEJA states that it “coordinated extensively with Sierra Club throughout the proceeding to ensure their presentations were supplemental and complementary. For example, CEJA and Sierra Club coordinated discovery, expert report preparation,		Verified

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

cross-examination, ex parte meetings, and submitted joint briefs and comments. CEJA also coordinated with ORA regarding evidentiary hearings and briefing. To a lesser degree, CEJA coordinated with other parties.”	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

Because we find no substantial contribution, we do not reach this issue.

B. Specific Claim:

Because we find no substantial contribution, we do not reach this issue.

C. CPUC Disallowances & Adjustments:

#	Reason
1.	No substantial contribution.
2.	Because we disallow 100% of the requested compensation, we do not reach the issue of reasonableness of the claim amount, hours, or fees.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?	No

If not:

Party	Party's Comment	CPUC Discussion
	No comments were received.	

FINDINGS OF FACT

1. California Environmental Justice Alliance has not made a substantial contribution to Decision 14-02-016.

CONCLUSION OF LAW

1. The Claim should be denied.

ORDER

1. The Claim of California Environmental Justice Alliance is denied.
2. The comment period for today's decision is not waived.

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1402016		
Proceeding(s):	A1306015		
Author:	ALJ Yacknin		
Payer(s):	N/A		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
California Environmental Justice Alliance	04/11/2014	\$34,639.40	\$0.00	No	Failure to make a substantial contribution.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
n/a	n/a	n/a	n/a	n/a	n/a	n/a

(END OF APPENDIX)